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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/487,841	01/19/00	ROZEN	50004/003004

HM12/0809

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EXAMINER

CHEN, S

ART UNIT

PAPER NUMBER

1633

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DATE MAILED: 08/09/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/487,841

Applicant(s)

Gravel et al.

Examiner

Shin-Lin Ch n

Group Art Unit
1633



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire _____ thirty days, _____ from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

- ☒ Claim(s) 1-21 _____ is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claims 1-21 _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-11, 13, 14 and 21, drawn to a method of treating or preventing cancer, cardiovascular disease or neural tube defects in a subject comprising detecting an increased risk of the diseases set forth above by detecting polymorphism of MTRR nucleic acid and inhibiting methionine synthase reductase (MTRR) activity by using metabolite or cofactor, classified in class 514, subclass 1.
 - II. Claims 6, 12-15 and 18-21, drawn to a method of detecting an increased risk of the diseases set forth above by detecting a MTRR protein polymorphism in a future parent, an embryo or a fetus, classified in class 435, subclass 7.1.
 - III. Claims 6, 15-19 and 21, drawn to a method of detecting an increased risk of the diseases set forth above by detecting a MTRR nucleic acid polymorphism and further detecting the presence of a MTHFR polymorphism and measuring the level of cobalamin in a subject, classified in class 435, subclass 6.

Claims 13 and 14 are generic to groups I and II. Claims 15, 18 and 19 are generic to groups II and III. Claims 6 and 21 are generic to groups I-III. The examination of such claims will be considered only to the extent that they read on the elected subject matter. Applicant is further required to amend the claims to read on the elected inventions since the claims are

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generic. If found allowable, such claims would contain non-elected subject matter and could not be issued

2. The inventions are distinct, each from the other because of the following reasons:

Groups I-III are patentably distinct from each other because they are materially distinct methods which differ at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success. The scientific considerations for group I include: isolation of MTRR nucleic acids and detection of polymorphism in said MTRR nucleic acids. The scientific considerations for group II include: isolation of MTRR polypeptides and detection of polymorphism in said MTRR polypeptides. The scientific considerations for group III include: isolation of MTHFR nucleic acids, detection of polymorphism in said MTHFR nucleic acids and measuring the level of cobalamin in a sample isolated from a subject. Thus, groups I-III are drawn to different classifications and require separate searches.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter and as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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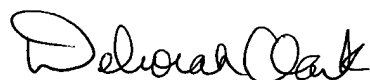
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shin-Lin Chen whose telephone number is (703) 305-1678. The examiner can normally be reached on Monday to Friday from 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuayder can be reached on (703) 308-0447. The fax phone number for this group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-0196.

Shin-Lin Chen, Ph.D.


DEBORAH J.R. CLARK
PRIMARY EXAMINER